

Message Text

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ACTION EA-09

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 SAJ-01

/057 W

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R 210957Z JUL 76
FM AMEMBASSY TOKYO
TO SECSTATE WASHDC 0981
INFO CINCPAC HONOLULU HAWAII
COMUSJAPAN YOKOTA AB JAPAN

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CINCPAC ALSO FOR POLAD

E. O. 11652: N/A
TAGS: PINT, JA
SUBJ: NEW COURT RULING IN SECRETS LEAKAGE CASE

REF: 74 TOKYO 1457 (010803Z FEB 74)

SUMMARY. THE 1974 ACQUITTAL OF A JOURNALIST WHO USED A MOFA SECRETARY TO OBTAIN GOVERNMENT SECRETS HAS BEEN OVERTURNED ON APPEAL THE TOKYO HIGH COURT. THE JOURNALIST WILL APPEAL TO THE SUPREME COURT AND, WITH THE VOCAL BACKING OF THE MEDIA, WHICH HAVE MADE FREEDOM OF THE PRESS THE ISSUE, THE CASE WILL CONTINUE IN THE HEADLINES.
END SUMMARY.

1. ON JULY 21 THE TOKYO HIGH COURT OVERTURNED A 1974 RULING OF THE TOKYO DISTRICT COURT AND FOUND FORMER JOURNALIST TAKICHI NISHIYAMA GUILTY OF "INSTIGATING" DISCLOSURE OF AN OFFICIAL SECRET, NISHIYAMA AND HIS MISTRESS, A MOFA SECRETARY, WERE ORIGINALLY INDICTED UNDER THE NATIONAL PUBLIC SERVICE LAW FOR DISCLOSING MOFA DOCUMENTS CONCERNING THE US-JAPAN OKINAWA REVERSION TALKS. THE SECRETARY, MRS. HASUMI, WAS ORIGINALLY RULED GUILTY AND GIVEN A LIGHT SENTENCE BY THE SAME COURT WHICH ACQUITTED NISHIYAMA ON THE GROUNDS THAT HIS

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EAGERNESS TO GET AT THE TRUTH JUSTIFIED HIS CONDUCT, ESPECIALLY

SINCE THE "SUBSTANTIVENESS" OF THE SECRET DOCUMENTS WAS NOT GREAT.

2. IN OVERTURNING THE 1974 RULING, THE HIGH COURT SAKD THAT, WHILE REPORTERS MAY GATHER NEWS "IN AN APPROPRIATE MANNER" WITHOUT INCURRING VIOLATIONS OF THE NATIONAL PUBLIC SERVICE LAW, THEY DO NOT HAVE THE RIGHT TO FORCE CIVIL SERVANTS TO ASSIST THEM. NISHIYAMA'S METHOD OF "FORCING" HASUMI'S COOPERATION WAS SEDUCTION. AFTER RECEIVING HIS SENTENCE TO FOUR MONTHS IN PRISON (TO BEGIN IN ONE YEAR), NISHIYAMA ANNOUNCED HIS INTENTION TO APPEAL TO THE SUPREME COURT.

3. ALL TOKYO PAPERS HAVE SUPPORTED NISHIYAMA IN WHAT THEY VIEW AS HIS EXERCISE OF FREEDOM OF THE PRESS. MOST SAY THE HIGH COURT'S RULING IS UNCOVINCING BECAUSE IT CONFUSES THE ETHICS OF THE CASE (NONE OF THEM DEFEND NISHIYAMA'S METHODS) WITH THE CONSTITUTIONAL RIGHTS OF THE PRESS. THEY HOPE THE SUPREME COURT WILL FINALLY SETTLE THE CASE IN NISHIYAMA'S FAVOR.

4. COMMENT. THE NISHIYAMA CASE IS QUITE LIKELY TO CONTINUE RECEIVING MEDIA ATTENTION FOR SOME TIME, WITH FREEDOM OF THE PRESS A

MEDIA BATTLE CRY. THE GOJ, WHICH DOES NOT HAVE AN OFFICIAL SECRETS ACTS TO PROTECT ITS SECRETS, IS EQUALLY LIKELY TO FIGHT HARD TO HAVE THE SUPREME COURT UPHOLD THE CONVICTION.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COURT DECISIONS, JOURNALISTS, INFORMATION CONTROL
Control Number: n/a
Copy: SINGLE
Draft Date: 21 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: BoyleJA
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976TOKYO10982
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760280-0630
From: TOKYO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760734/aaaabebv.tel
Line Count: 85
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 TOKYO 1457
Review Action: RELEASED, APPROVED
Review Authority: BoyleJA
Review Comment: n/a
Review Content Flags:
Review Date: 28 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <28 MAY 2004 by ElyME>; APPROVED <22 SEP 2004 by BoyleJA>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: NEW COURT RULING IN SECRETS LEAKAGE CASE
TAGS: PINT, JA, (NISHIYAMA, TAKICHI)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006